

REMARKS

In response to the Office Action dated February 19, 2003, claims 1, 5 and 6 are amended, and claims 10-16 are cancelled. Claims 1-9 are now active in this application. No new matter has been added.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 102 AND § 103

I. Claims 2-5 and 7-9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Katayama et al. (US 2002/0081019; hereinafter, Katayama)

The rejections of claims 2-4 are respectfully traversed.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention such that the identically claimed invention is placed into possession of one having ordinary skill in the art. *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339, 200 U.S. App. LEXIS 6300, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994).

There is/are a significant difference(s) between the claimed invention and the arrangement disclosed by Katayama that scotches the factual determination that identically describes the claimed inventions within.

The Examiner refers to page 20, paragraph 0391 of Katayama a disclosing a display controller for displaying the three-dimensional image as a guide image on the monitor for framing. However, independent claim 2 recites, *inter alia*:

generating image data of a three-dimensional shape model in accordance with the three-dimensional data inputted from a part of the object, the image corresponding to the shape of the three-dimensional data;

an image generator for generating a three-dimensional model image of the object in accordance with the three-dimensional data of the object obtained by the shooting; and
 a display controller for displaying the three-dimensional model image as a guide image on the monitor for framing.

Thus, the guide image of claim 2 is the image of the three-dimensional model image of the object *generated in accordance with the three-dimensional data of the object obtained by the shooting* (emphasis added). In contrast, the image that is framed in Katayama is not a guide image in that the image is not of the three-dimensional model image of the object generated in accordance with the three-dimensional data obtained by the shooting (of the object). What is framed in Katayama is merely the image of the object displayed in the finder window. It is only after framing occurs that the image of the object is scanned to obtain image data of the object (see page 20, second sentence of paragraph 0391).

This differences between the claimed device and the device of Katayama undermines the factual determination that Katayama identically describes the claimed invention within the meaning of 35 U.S.C. § 102. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986). Applicants, therefore, submit that the imposed rejection of claims 2-4 under 35 U.S.C. § 102 for lack of novelty as evidenced by Katayama is not factually or legally viable and, hence, solicit withdrawal thereof.

To expedite prosecution, independent claim 5 is amended to clarify that “the image of the three-dimensional shape model being based on a predetermined three-

dimensional shape model data". Support for this recitation can be found from page 23, line 26 to page 24, line 3 of the present specification.

Katayama lacks any description of displaying model data. Accordingly, Katayama fails to disclose that model data are displayed as a guide image, then, framing is performed based on the guide image to shoot an object, as now recited in amended claim 5.

Thus, amended independent claim 5, as well as dependent claims 7-9, are patentable over Katayama and their allowance is respectfully solicited.

II. Claims 1, 6, 10-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Katayama in view of Lanne et al. (USPN 4,663,658; hereinafter Lanne). The Examiner admits that Katayama does not disclose performing framing so that the guide image is overlapped on the image of the object that corresponds to the guide image. The Examiner maintains that Lanne teaches that it is know to perform framing so that the guide image is overlapped on the object image and asserts that it would have been obvious to one of ordinary skill in the art to modify the framing disclosed by Katayama to include overlapping the guide image on the object to assist in positioning.

The rejection is moot as to cancelled claims 10 and 13, and is respectfully traversed as to claims 1 and 6.

Independent claim 1 recites, *inter alia*:

generating image data of a three-dimensional shape model in accordance with the three-dimensional data inputted from a part of the object, the image corresponding to the shape of the three-dimensional data;

displaying the image of the three-dimensional shape model on the monitor screen as a guide image for framing;

Thus, claim 1 has limitations that are similar to the limitations recited in claim 2 with respect to the guide image. Thus, claim 1 is patentable over Katayama for the same reasons as to why claim 2 is patentable over Katayama.

As claim 6 depends from claim 5, it is patentable over Katayama also, even when considered in view of Lanne.

III. Claims 14-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Katayama in view of Lanne, and further in view of Kondo et al. (USPN 6,424,877; hereinafter, Kondo), relied upon by the Examiner a teaching that it is known to adjust the size or scale of the guide image.

The rejection is moot as to cancelled claims 14-16.

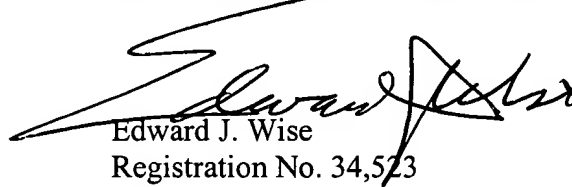
CONCLUSION

Accordingly, it is urged that the application, as now amended, is in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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